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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON
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9 UNITED STATES OF AMERICA,
10 Plaintiff,
11 v.
12 JOHN LEONARD CALVERT,
13 Defendant.

14 NO. CR-99-0154-EFS

15 **ORDER DENYING MR. CALVERT'S
16 MOTION TO ALTER JUDGMENT**

17 Before the Court, without oral argument, is Defendant John
18 Calvert's Motion to Amend Judgment and Sentence, (Ct. Rec. 336). Mr.
19 Calvert asks the Court to amend the Second Amended Judgment in a Criminal
20 Case, (Ct. Rec. 350), to remove the restitution and fine payment
21 requirements and to ensure that Mr. Calvert gets credit for time served
22 in the Walla Walla State Penitentiary. For the reasons given below, the
23 Court denies the Defendant's motion.

24 First, the Second Amended Judgment in a Criminal Case, (Ct. Rec.
25 350), did not require payment of a fine. The Court found at sentencing,
26 due to the restitution order, Mr. Calvert did not have the ability to pay
a fine. Accordingly, Mr. Calvert's motion is denied in part.

27 The Court did order Mr. Calvert to make restitution in the amount
28 of \$46,884.51. However, the Court did not order Mr. Calvert to pay

1 \$25.00 per month as Mr. Calvert appears to indicate B.O.P is requiring
2 him to pay each month. Rather, the Second Amended Judgment provides,
3 “[w]hile incarcerated defendant shall pay 1/10 of his income towards
4 restitution.” (Ct. Rec. 350). The Court finds this restitution payment
5 appropriately takes into account that Mr. Calvert may need to utilize his
6 funds while incarcerated for items other than restitution. Accordingly,
7 the Court denies Mr. Calvert’s request to remove the restitution payment
8 requirement.

9 Lastly, Mr. Calvert asks the Court to ensure that he gets credit for
10 time served at the Walla Walla State Penitentiary. The Amendment
11 Judgment provides, “Court recommends that defendant received [sic] credit
12 for time served in this matter as well as the Washington State matter.”
13 The Court finds this directive is sufficient, and denies the Defendant’s
14 motion to take further action.

15 Accordingly, the Defendant’s Motion to Alter Judgment, (**Ct. Rec.**
16 **366**), is **DENIED**.

17 **IT IS SO ORDERED.** The District Court Executive is directed to:

18 1. Enter this Order, and
19 2. Provide copies to all counsel, the Sheridan Federal Detention
20 Center, and Mr. Calvert at: Federal Detention Center, 08522-085-FCI,
21 P.O. Box 13900, Sheridan, OR 97378.

22 **DATED** this 27th day of June, 2005.

23
24 S/ Edward F. Shea
25 EDWARD F. SHEA
26 United States District Judge